

# Memorandum

**170.0002.500**

To : Mr. Vic Anderson  
Supervisor, Petitions Section

Date: June 12, 1996

From : Thomas J. Cooke  
Tax Counsel

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Subject: J--- A--- C---  
Account No. SR -- XX-XXXXXX

Gary Jugum has requested that I respond to your memorandum to him dated May 30, 1996 concerning the above taxpayer.

In your memorandum, you state that on June 25, 1987, the above taxpayer filed Chapter 11 bankruptcy. The Board subsequently issued a Notice of Determination based on a deficiency discovered by audit. The taxpayer then received a bankruptcy discharge on September 6, 1991.

You state that the determination should be cancelled as it violated the automatic stay. You ask how the Board should handle the bankruptcy distributions received and the payments made by the taxpayer over the past three years.

A Notice of Determination was issued on November 24, 1987 in the total sum of \$4,966.64 for the period January 1, 1984 to June 15, 1987. We agree that this determination was issued during a period when the bankruptcy "automatic stay" was in effect and should be cancelled pursuant to Revenue and Taxation Code section 6981. However, it is our opinion that the taxpayer is only entitled to file a claim for refund for any payments made within the period specified in Revenue and Taxation Code section 6902. In this case, payments made within the previous six month period may be refunded.

TJC/cmm

cc: San Diego District Administrator (FH)